

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility: The bill clarifies that transitional child care is only available to those who are either employed or seeking employment.

B. EFFECT OF PROPOSED CHANGES:

Background

Workforce Services Delivery System

Workforce Florida, Inc., (WFI) creates statewide policy for Florida's workforce system.² The Agency for Workforce Innovation (AWI) is responsible for implementing that policy through its 24 regional workforce boards (RWBs or boards). The boards deliver program services at the local level that reflect workforce policy through one-stop career centers.

Currently, 96 one-stop career centers, which operate under the direction of the boards, provide employment services to job seekers, such as job training and career counseling. The one-stop centers also assist employers in finding workers to fill vacancies.

In accordance with s. 445.009(7), F.S., regional workforce boards enter into memoranda of understanding with the one-stop centers to deliver these services. The memoranda specify, in accordance with a U.S. Secretary of Labor requirement,³ that job finding, placement, and reemployment services be delivered by state merit-staffed employees. As a result of positive results from demonstration projects using non-merit-based staff systems under the Workforce Investment Act and "[i]n the interest of providing maximum flexibility to all States,"⁴ the U.S. Department of Labor (DOL) has proposed no longer requiring that these services be delivered only by state merit-staffed employees.⁵

The Workforce Innovation Act of 2000 directed WFI to provide oversight and policy direction for several programs, including welfare transition services funded by the federal Temporary Assistance to Needy Families (TANF) program.

Temporary Assistance to Needy Families

The TANF program was created by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403, of the Social Security Act, as amended. The PRWORA defines work activities for the TANF work program; establishes requirements for workforce performance measures and standards; requires an integrated data system; and requires employer participation. In addition, the act provides that state and regional entities will govern the workforce development system.

² See, ch. 445, F.S.

³ The Secretary of Labor may, under section 3(a) and 5(b)(1) of the Wagner Peyser Act, issue requirements intended "to develop and prescribe minimum standards of efficiency for State public Employment Services and promote uniformity in their administrative procedures." 70 Fed. Reg. 76559 (to be codified at 20 CFR sec. 652).

⁴ *Id.*

⁵ DOL has proposed replacing 20 CFR Secs. 652.215 and 652.216, which contain the merit employee language, with a new section 652.215, which will authorize states to deliver services using methods in addition to state merit-staffed delivery systems. *See, id.*

TANF provides funding for “a wide variety of employment and training activities, supportive services, and benefits that will enable clients to get a job, keep a job and improve their economic circumstances.”⁶ More specifically, TANF is designed to do the following:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- Encourage the formation and maintenance of two-parent families.⁷

To qualify for TANF block grants, states must impose work requirements on welfare recipients and establish time limits on the receipt of TANF cash assistance, also known as temporary cash assistance (TCA). The federal law defines a work-eligible individual, with certain exceptions, as “an adult (or minor child head of household) receiving assistance under TANF or a separate state program or a non-recipient parent living with a child receiving such assistance.”⁸ While individuals receiving TCA are required to comply with work requirements, they will not be penalized for not working if they are unable to secure childcare.⁹

Work Activity Requirements

The TANF final rule¹⁰ contained a list of work requirements without specific definitions in order to promote states’ flexibility in designing their own programs. As a result, s. 445.024, F.S., lists each work requirement followed by a detailed, lengthy explanation of its meaning.

A 2005 report by the federal Government Accountability Office, noted that “the wide range of work activity definitions used across states makes it difficult to compare work participation across States.”¹¹ Concern over the inconsistency of work measures across and among states led to the Deficit Reduction Act of 2005 requirement that HHS define each work activity category as it has in its interim rule.¹²

Revised TANF Legislation

The Deficit Reduction Act of 2005 (DRA) requires the U.S. Department of Health and Human Services (HHS) to define work activities, and determine who is a work eligible individual. The interim final rule published on June 29, 2006,¹³ implements the work and program changes of the new law. The interim final rules provide definitions of work activities, and require that states provide services consistent with those activities in order to receive continued funding. The rule also requires states to develop a Work Verification Plan to ensure compliance with federal definitions and requirements. Moreover, states are required to provide current work definitions and internal control procedures, proposed changes, and details of their implementation process. In order to receive full TANF grant amounts under the DRA,

⁶ Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance. Helping Families Achieve Self-Sufficiency: A Guide on Funding Services for Children and Families through the TANF Program, p.4. <http://www.acf.dhhs.gov/programs/ofa/funds2.htm>. 8 February 2007.

⁷ See, 45 CFR Sec. 260.20.

⁸ 45 CFR Sec. 261.2(n)1. The following individuals are excluded from this definition: minor children who are not heads of a household, aliens not eligible for assistance due to their immigration status and, at State option, on a case-by-case basis, recipients of Supplemental Security Income benefits.

⁹ See, 45 CFR 261.56.

¹⁰ 64 FR 17720, April 12, 1999.

¹¹ HHS, supra, note 1, citing GAO Report (GAO-05-821), Welfare Reform: HHS Should Exercise Oversight to Help Ensure TANF Work Participation Is Measured Consistently Across States.

¹² HHS, supra, note 1.

¹³ HHS, supra, note 1.

states are now required to apply internal controls, document participation hours, and ensure that their work activities meet federal definitions.

Transitional Child Care

Under current law, transitional child care is available for up to 2 years for former welfare transition program participants and individuals “who have been redirected through up-front diversion.”¹⁴ According to representatives of AWI, upfront diversion program participants are individuals who seek help at a one-stop center, but do not meet the income requirements for TANF assistance. They may receive job training or counseling, or other services unrelated to cash assistance.

Effects of Proposed Changes

The bill amends s. 445.009(3), F.S., relating to the one-stop delivery system, to delete the requirement that regional workforce boards enter into memoranda of understanding with AWI for the delivery of employment services.

Currently, this subsection requires regional workforce boards to enter into such memoranda for the delivery of employment services authorized and funded by the federal Wagner Peyser Act. The memoranda require that one-stop centers use state merit-based employees to deliver job finding, placement, and reemployment services. The bill deletes this requirement in anticipation of a proposed change to federal law which will allow other employees to be used to deliver such services. Consequently, an unspecified number of state merit-based employees could be affected by this change in policy, should the proposed change to federal law occur. Absent this change to federal law, one-stop centers will still be required to use state merit-based employees.

The bill amends s. 445.024, F.S., related to work requirements, in order to align the state description of work requirements with those contained in the federal TANF law.

Currently, s. 445.024(1), F.S., lists several work requirements, with lengthy descriptions, that may be used individually or in combination to satisfy the work requirements for participants in the temporary cash assistance program. They include:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Community service work experience;
- Work experience (combining job training with education related to an employment goal);
- Job search and job readiness assistance;
- Career education or training;
- Job skills training;
- Education services related to employment for participants 19 years of age or younger;
- School attendance;
- Teen parent services;
- Extended education and training;
- GED preparation and literacy education; or
- Providing child care services.

This bill deletes these descriptions, retaining only the categories of each work requirement, explicitly requiring that the federal definitions be used. The bill also does the following:

- Adds “on-the-job training” as a separate work requirement category;

¹⁴ Section 445.032, F.S.

- Specifically states that the job skills training and education requirements be “directly related to employment” in order to prevent the inclusion of barrier removal activities;¹⁵
- Replaces the “school attendance” requirement for those 19 years of age and younger with a “satisfactory attendance at the secondary school or in a course of study leading to a graduate equivalency diploma” for any age in order to comply with federal law;¹⁶
- Deletes teen parent services;
- Deletes extended education and training; and
- Deletes GED preparation and literacy education.

While the substance of the extended education and training as well as the GED preparation and literacy education are incorporated into other federal work requirement categories, the teen parent services category is not.

This bill deletes the exemption from work requirements currently provided to minors under 16 years of age. This exemption does not exist in federal law, which classifies minor parents as work eligible.¹⁷ Therefore, deleting this provision brings the state statute in line with federal law.

The bill also amends the remaining subsections of s. 445.024, F.S., to make minor adjustments to the language of the statute in order to align it with federal law.

The bill amends s. 445.032, F.S., to make clear that transitional child care is only available to those who are either employed or seeking employment. Currently the statute does not make clear that employment is a prerequisite to receiving child care. The revisions reflect this clarification in the new federal law.

The bill also amends s. 402.305, F.S., to change the phrase “community service work experience activity” to “community service program activity” to conform to the same change in section 2 of the bill. This section of the bill also corrects cross-references that have been changed by the bill.

C. SECTION DIRECTORY:

Section 1. Amends s. 445.009, F.S., deleting a requirement that regional workforce boards enter into memoranda of understanding with the Agency for Workforce Innovation regarding its one-stop delivery system.

Section 2. Amends s. 445.024, F.S., related to work requirements, in order to align the state description of work requirements with those contained in the federal TANF law.

Section 3. Amends s. 445.032, F.S., to make clear that transitional child care is only available to those who are either employed or seeking employment.

Section 3. Amends s. 402.305, F.S., to make conforming changes.

Section 4. Provides the bill will take effect upon becoming law.

¹⁵ According to the explanation of the TANF interim final rule, while literacy or language instruction may be included, such instruction should focus specifically on skills needed for employment. However, “barrier removal activities” such as substance abuse counseling and treatment, mental health services, and other rehabilitative activities, while encouraged, do not meet the requirement that activities focus “on educational or technical training designed specifically to help individuals move into employment.” Id. at 37461.

¹⁶ The 19-year-old age limit appears to have been arbitrary; no such limit exists in federal law.

¹⁷ Florida Statutes otherwise provides guidance for the provision of services to teen parents: s. 414.095(2)(a)4., F.S., addresses a teen parent’s eligibility for temporary cash assistance and Medicaid; s. 414.095(2)(b) addresses teen parent eligibility for temporary cash assistance; and s. 445.019 generally outlines a teen parent and pregnancy prevention diversion program designed to prevent welfare dependency by reducing teen pregnancy, reduce the incidence of multiple pregnancies to teens and assist them in completing educational or employment programs, or both.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES